

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JAMES DOBBINS,

Plaintiff,

Docket #08-CV-6113
(DC)(MJF)

-against-

LONG ISLAND RAILROAD COMPANY,

Defendant.

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S I R S :

Defendant, THE LONG ISLAND RAIL ROAD COMPANY (“LIRR”) sued herein as Long Island Railroad Company, by its attorney, J. DENNIS McGRATH, ESQ., answering the complaint of plaintiff, alleges upon information and belief:

1. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “FIRST”.
2. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs “THIRD” and “FOURTH” and refers all questions of law to this Court for its determination.
3. Denies the allegations contained in paragraphs “FIFTH”, “SIXTH” and “SEVENTH”.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

4. Whatever injuries and/or damages plaintiff may have sustained at the time and place alleged in the Complaint were caused in whole or in part or were contributed to by the culpable conduct and negligence or fault or want of care on the part of the plaintiff, including contributory negligence and without any negligence or fault or want of care on the part of this answering defendant, LIRR.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

5. Plaintiff has failed to mitigate his damages.

WHEREFORE, defendant demands judgment of this court dismissing the action in its entirety, plus the costs and disbursements of this action.

Dated: Jamaica, New York
August 4, 2008

J. DENNIS McGRATH, ESQ.
Acting General Counsel & Secretary
Attorney for Defendant

By: 

Sean P. Constable (SC3472)
LIRR Law Department - 1143
Jamaica Station
Jamaica, New York 11435-4380
(718) 558-7760
(File No. JN-6394/L06000557

TO: **MICHAEL FLYNN, PC**
Attorneys for Plaintiff
1205 Franklin Avenue
Garden City, NY 11530
516-877-1234